

AG Contract No. KR02-2127TRN
ADOT ECS File No. JPA 02-126
Project: TEA-180-A(2)A
Section: US 180 Multi-Use Pathway
TRACS No. H 5999 01C
Budget Source Item # 75305

AMENDMENT ONE
INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF FLAGSTAFF

THIS AGREEMENT is entered into September 21, 2005, Amendment One pursuant to JPA 02-126, AG Contract No. KR02-2127TRN, filed with the Secretary of State under No. 26034 pursuant to Arizona Revised Statutes, § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and 28-334 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

Article I. Paragraph 3 is deleted and replaced; Paragraph 4 is added in full as follows:

3. The parties agree to amend the above-referenced Agreement to a) Include improvements to the drainage system, the 10' pathway, driveway improvements, signing and striping and ADA ramps between Sechrist School Road and Fremont Drive on (US) 180, hereinafter referred to as the "Project". b) Add the Non-Availability of Funds and, the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) to this Agreement.

4. The State and City desire to participate in the design and construction of improvements to the drainage system, driveway improvements, signing and striping and ADA ramps which includes but is not limited to curbing, gutters and asphalt work and to further enhance improvements to the 7,500' 10' wide pathway, between Sechrist School Road and Fremont Drive on US 180. The parties agree that the State will design and construct, and the City will provide maintenance and striping of crosswalks and stop bars in addition to approved signing for the Project. The estimated Project costs are as follows:

NO. 26034
Filed with the Secretary of State
Date Filed: 9-21-05

Jessie K. Brown
Secretary of State

By: [Signature]

Enhancement TRACS No.: H5999 01C / 01D

Estimated Construction and Design Cost	\$ 809,100.00
Estimated Federal Aid Funds @ 94.3%	\$ 762,981.00
Estimated State Funds @ 5.7%	\$ 46,119.00

District Minor TRACS No.: H5999 01C / 03D

Estimated Construction and Design Cost	\$ 350,000.00
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City Contribution TRACS No.: H5999 01C

Estimated Construction Cost	\$ 52,000.00
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Total Estimated cost of Project ***\$1,211,100.00***

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

Article II. 1. d. is deleted and replaced in full and e, f, g and h are added in full as follows:

1. The State will:

d. After the City concurs with the plans, the Project will be constructed by the State, using State, Federal Aid, City contribution and District Minor Funds.

e. Design and construct and maintain the improvements to the drainage system using District Minor Funds, estimated at \$350,000.00.

f. Design and construct the improvements to the driveways, 10' pathway and ADA ramps.

g. Upon execution of this Agreement the State will provide to the City an itemized list of the Projects final costs.

h. Upon execution of this Agreement invoice the City the estimated amount of \$52,000.00 for their contribution to the Project.

2. The City will:

Article II. 2. c. is deleted, 2. e. is deleted and replaced in full, 2. h. and i are added in full as follows:

e. Upon completion of the Project, the City will provide for, at its own cost, proper routine maintenance procedures, including but not limited to; sweeping, removal of debris, repair and graffiti control.

h. Review the design plans and other such documents required for construction of the Project and provide comments to the State as appropriate.

i. Upon execution of this Agreement and within thirty-days (30) upon receipt of an invoice from the State, remit to the State the estimated amount of \$52,000.00 for their contribution to the costs of the Project.

III. MISCELLANEOUS PROVISIONS

Article III. 1. is deleted and replaced in full as follows:

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion and reimbursements provided herein. However, subject to availability of funding, any provisions of maintenance, electrical power, water and landscaping provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

Article III. 8 and 9 are added in full as follows:

8. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 29 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

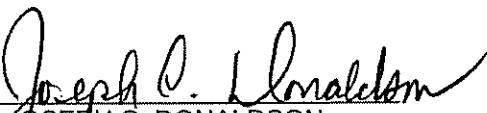
9. Non-Availability of Funds: every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF FLAGSTAFF


STATE OF ARIZONA

Department of Transportation

By 
JOSEPH C. DONALDSON
Mayor

By 
SUSAN TELLEZ
for Contract Administrator

ATTEST:

By 
MARGIE BROWN
City Clerk

JPA 02-126

Amendment One

APPROVAL OF THE CITY OF FLAGSTAFF ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 25th day of August, 2005.


City Attorney

RESOLUTION NO. 2005-92

A RESOLUTION APPROVING AMENDMENT ONE TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF FOR MULTI-USE PATH IMPROVEMENTS FOR THE U.S. 180 CORRIDOR

WHEREAS, the City of Flagstaff ("City") entered into an Intergovernmental Agreement with the Arizona Department of Transportation ("ADOT") dated June 4, 2003 ("IGA") regarding the design and construction of a multi-use pathway between Sechrist School Road and Fremont Drive on U.S. 180 within the limits of the City of Flagstaff; and

WHEREAS, ADOT and the City desire to amend the IGA by Amendment One to Intergovernmental Agreement ("Amendment"), in the form attached to the Staff Summary Report in support of this Resolution, to change an ADOT funded construction cost amount from the estimated sum of \$809,100 to \$1,159,100 to account for the addition of curb and gutter construction and to change the City funded construction cost amount from the estimated sum of \$432,300 to \$52,000 as a result of a lower estimate for utility relocation costs, and as further set forth in said Amendment; and

WHEREAS, the City Council has reviewed the proposed Amendment and finds that it is in the best interests of the City to enter into Amendment One to the Intergovernmental Agreement with the Arizona Department of Transportation;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That Amendment One to the Intergovernmental Agreement between the Arizona Department of Transportation and the City submitted as an attachment to the Staff Summary Report for the City Council meeting of August 16, 2005, be hereby approved, and the Mayor be authorized and directed to execute the Amendment on behalf of the City of Flagstaff.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 16th day of August, 2005.

Al C. Hite Vice Mayor FOR
MAYOR

ATTEST:

Margie Brown
City CLERK


APPROVED AS TO FORM:

Sam Lane for
CITY ATTORNEY

CERTIFICATION

I, MARGIE BROWN, City Clerk of the City of Flagstaff, Arizona, do hereby certify that the attached is a full, true, and correct copy of Resolution No. 2005-92, adopted by the Flagstaff City Council at their Meeting held August 16, 2005.

IN WITNESS WHEREOF, I have hereunto set my hand and impressed the official Seal of the City of Flagstaff, this 19th day of August, 2005.


CITY CLERK

(SEAL)



TERRY GODDARD
Attorney General

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
Writer's Direct Line: 602 542 8849
E-mail: Joe.Acosta@agaz.gov

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-2127TRN (**JPA 02-126, AMENDMENT ONE**), an Agreement between public agencies, i.e., The State of Arizona and The City of Flagstaff, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: September 13, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script that reads "Susan Davis".

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:923959
Attachment